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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 28th March 2006

No. 2738-li/1(J)-40/1992-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 24th February 2006 in Industrial Dispute Case No. 44/1992 of the Presiding Officer, Labour Court, Jeypore to whom the industrial disputes between the Management of Eastern Media Ltd., Bhubaneswar, At/P.O. Bhubaneswar, Dist. Khurda and its workman Shri Dillip Chawda, C/o Late Lalji Siraji Chawda, Red Cross Street, At/P.O. Bhanjanagar was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER
LABOUR COURT, JEYPORE, KORAPUT

INDUSTRIAL DISPUTE CASE NO. 44 OF 1992

Dated the 24th February 2006

Present :

Shri R. K. Saran
Presiding Officer, Labour Court
Jeypore, Dist. Koraput.

Between :

The Management of
Eastern Media Ltd., Bhubaneswar
At/P.O. Bhubaneswar
Dist. Khurda. . . First Party—Management

Versus

Its workman .. Second Party-Workman
Shri Dillip Chawda
C/o Late Lalji Siraji Chawda
Red Cross Street
At/P.O. Bhanjanagar
Dist. Ganjam.

(Under Sections 10 and 12 of the Industrial Disputes Act, 1947)

Appearances :

For the Management	..	Shri Bishnupada Patnaik Personnel Eastern Media Ltd., Bhubaneswar on behalf of the Chairman-cum-Managing Director, Eastern Media Ltd.
For the Workman	..	Self
Date of Argument	..	14-2-2006
Date of Award	..	24-2-2006

AWARD

This is a reference under Section 10(1), read with Section 12(5) of the Industrial Disputes Act, 1947 made by the State Government of Orissa in their Labour & Employment Department Memo No. 11245(4), dated the 27th August 1992 for adjudication of the dispute mentioned below :

SCHEDULE

“Whether the retrenchment of Shri Dillip Chawda, Correspondent with effect from the 1st December 1991 by the Management of Eastern Media Ltd., Bhubaneswar is legal and/or justified ? If not, to what relief is Shri Chawda entitled ?”

2. The present reference has been received from the Hon’ble Court with the following observation :—

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“xx xx xx The impugned award reveal that the Labour Court has not taken all the materials exhibited in the case into consideration. Thus the impugned award suffers from the vice of non-consideration of the materials available on record. I have therefore, no hesitation to quash the impugned award and remand the matter to the Labour Court for *de novo* disposal of the I.D. case on the basis of the materials available on record, and I direct accordingly. The Labour Court in order to facilitate efficacious adjudication, if necessary, may permit the parties

to adduce further evidence, oral or documentary and as the litigation is pending long since, the same shall be disposed of as expeditiously as possible."

After receipt of the same both the parties have been noticed. The second party workman filed documents as per list which are marked Ext. 1 to Ext. 13 which show that, the second party workman was sending news and advertisements to the first party management and has been received payment. From those exhibits it appears that the management stood as a guarantor to provide a scooter to the second party workman for collecting news and to send it to the Sambad for publication. During the course of hearing the management refuted such claim for which the workman files an application to summon Shri Sanjeeb Mohanty an employee of the management to prove the said documents. All such documents have been filed either by the workman or by the management but from those documents it appears that, Shri Mohanty sent a letter to the workman to take back his dues and to settle the scooter loan and guarantee, etc., From those documents it appears that some dues of Dillip Chawda which is not to be computed in this proceeding or cannot be ordered to be paid to the workman here. The workman has also filed the photo copy of the Correspondent Identity Card which has not been disputed by the management. Though Sanjeeb Mohanty was noticed to appear before the Court, he neither appeared nor disclosed the truth. From that, it proves that the management is withholding material witness before the Court.

3. The management witness in his evidence has submitted that, the workman is not a Journalist and his principal avocation is not journalism. But the definition of working Journalist which contains in the Act is as follows :—

"The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955". It appears as per Rules :— xx xx xx xx

"(f) Working Journalist means a person whose principal avocation is that of a Journalist and, one (Who is employed as such, either whole-time or part-time in or in relation to one or more newspaper establishments) and includes an editor, a leader writer, news editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who,—

- (i) is employed mainly in a managerial or administrative capacity ; or
- (ii) being employed in a supervisory capacity performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature; ".

From the above definition either full-time or part-time Journalists are included in the class of Journalist mentioned above. From the evidence of the management witness it is clear that, the workman is sending news and writing as a teacher, student and lawyer and was getting salary on line basis and it has been published in Sambad. The management witness further says that the principal avocation of the workman was not journalism and there was no master and servant relationship between the management and the workman, even if that is accepted as correct still then the workman was a part-time news correspondent and as a feature writer the workman has some dues which has been admitted by the management as

per Ext. 5 and the management has noticed the workman to take back his dues and sent a copy of the said letter to the Managing Director, Eastern Media Ltd., Bhubaneswar. This being the position, the workman has dues outstanding against the management which, he is at liberty to recover through process of law.

4. The workman in his evidence has further stated that, he is not interested and desirous to work under the management. This being the position, it is not necessary to direct the management to reinstate the workman in his post. But as stated above the workman has dues with the management which they can compute themselves amicably and decide the matter. If that is not materialised the workman is at liberty to take recourse of law to recover the dues, i.e. the back wages dues, etc.

In view of the above observations the reference is answered.

Dictated and corrected by me.

R. K. SARAN
24-2-2006
Presiding Officer
Labour Court, Jeypore

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24-2-2006
Presiding Officer
Labour Court, Jeypore

By order of the Governor
N. C. RAY
Under-Secretary to Government